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Attorneys for the United States

**FILED**

MAY 23 2013

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
JASON KEITH SMITH,  
Defendant.

No. CR 5:13-MJ-70031 HRL  
STIPULATION AND ~~PROPOSED~~  
ORDER CONTINUING APPEARANCE  
DATE AND EXCLUDING TIME FROM  
THE SPEEDY TRIAL ACT  
CALCULATION (18 U.S.C.  
§ 3161(h)(8)(A))

This matter is scheduled before the Court for an preliminary hearing or arraignment on May 23, 2013. On January 14, 2013, this Court issued a criminal complaint against the defendant related to a violation of 18 U.S.C. 875(c) - Interstate Communications of a Threat. The defendant, who resides in the Eastern District of Michigan, was arrested and made an initial appearance on January 22, 2013 in Detroit before United States Eastern District of Michigan Magistrate Judge Laurie J. Michelson. The defendant is currently represented by Northern District of California Assistant Federal Public Defender Diana Garrido and Eastern District of Michigan Assistant Federal Public Defenders Penny R. Beardslee and Loren E. Khogali. On January 23, 2013, Judge Michelson ordered the defendant released pursuant to conditions, STIPULATION AND [PROPOSED] ORDER CR 5:13-MJ-70031 HRL

ordered the defendant be transferred to the Northern District of California for further proceedings, excluded time, and ordered the defendant to appear in the Northern District of California on March 14, 2013 at 9 a.m. That initial appearance date was subsequently continued via the parties stipulation to May 23, 2013.

The United States and the defendant now request a continuance until July 25, 2013 in order to afford defense counsel additional time to effectively prepare and also to allow the parties an opportunity to discuss a potential pre-indictment resolution of the matter. The parties agree, and the Court finds and holds, as follows:

1. The preliminary hearing or arraignment is continued to July 25, 2013.

2. Time should be excluded under Rule 5.1 from May 23, 2013 to July 25, 2013 in order to allow defense counsel additional time to effectively prepare and also to allow the parties an opportunity to discuss a potential pre-indictment resolution of the matter. The parties agree that the continuance is proper under Rule 5.1 of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3060.

3. The time between May 23, 2013 to July 25, 2013 is excluded under the Speedy Trial Act. The parties agree that the failure to grant the requested continuance would unreasonably deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Finally, the parties agree that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial and in the prompt disposition of criminal cases. 18 U.S.C. §

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3161(h)(8)(A).

STIPULATED:

DATED: 5/22/13

/s/

DIANA GARRIDO  
PENNY R. BEARDSLEE  
LOREN E. KHOGALI  
Assistant Federal Public Defenders  
for Defendant Smith

DATED: 5/22/13

/s/

JOSEPH FAZIOLI  
Assistant United States Attorney

IT IS SO ORDERED.

DATED: 5/23/13

HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE